Invisible in Plain View

BY MARY M. MCDONOUGH, ESQUIRE

The "Creating Space in the LAW: Leadership, Advocacy & Women" column offers this article outside of our normal publication schedule to acknowledge January as National Slavery and Human Trafficking Prevention Month. In 2010, President Barack Obama chose January as the month to highlight this issue to honor the Emancipation Proclamation, issued by President Abraham Lincoln on January 1, 1863. Please visit www.state.gov/national-slavery-and-human-trafficking-prevention-month/ to learn more about human trafficking and how you can defend against this scourge. Many thanks to our guest columnist for bringing this issue to our attention.

The term "sex trafficking" typically triggers images of internationally smuggled women sold or rented for sex in the U.S. While that scenario, unfortunately, is accurate, it does not reflect all the victims of sex trafficking in this country. A substantial number are American females — adults — as well as children and teens.

January is human trafficking awareness month. There is not much public awareness of sex trafficking or prostitution in any month of the year beyond often stereotypical depictions in the media. The term "prostitution" can elicit images of the glamorized world shown in movies like *Pretty Woman*. As is often the case in the real world, the glamorized world in the movies looks nothing like the world inhabited by the women who participated in a Delaware treatment court for prostituted and trafficked individuals.

When I worked as a Commissioner in the Court of Common Pleas, I suspected that quite a few of the women who appeared before me on nonviolent misdemeanor charges like drug possession and shoplifting were involved in prostitution. However, it was a woman who was in court for not paying a motor vehicle fine who really opened my eyes. This woman, who appeared to be in her late 40s, pleaded with me to send her to prison for the fine she owed. The courtroom was packed, so I asked if she could wait until the end of the court calendar to address her case, and she patiently waited.

When only court personnel were left in the courtroom, I asked the woman why she wanted to be in prison. Through tears, this middle-aged woman explained that her father had put her into prostitution when she was a teenager and that this "life" was all she had known since then. She explained that she had turned to drugs to numb the awful pain and the rest of her life was a blur of prostitution.

The beleaguered woman said she could not take it anymore, explaining why prison would be much better for her. She would have a warm place to stay with three meals a day and be safe from violence and sex with strangers. I explained why I could not sentence her to prison, as she requested. Instead, all I could offer her were referrals to women's shelters, food programs, and sexual assault counselors. I did not help her in the ways she truly needed help. And apparently, no one had helped her either when she was young and became the victim of sex trafficking as a minor when her father became her pimp/trafficker.

How many other prostituted women and kids are "invisible in plain view" in our criminal justice system? If the middle-aged woman in court for a motor vehicle fine had asked simply for a payment plan, she would have given no clue

of her traumatized past and present. With the stigma attached to prostitution, it is no wonder it took her decades to disclose what she was going through to people in the criminal justice system.

That woman became the catalyst for starting a treatment court in Delaware; lack of funding could no longer be an obstacle. And it was a survivor of prostitution in our State, the late February O'Donnell, who helped start the Human Trafficking Treatment Court that operated in New Castle County from 2012-2017. To learn more about this treatment court, please see Mary McDonough & Yolanda Schlabach, *Human Trafficking Court: Lessons Learned*, Much More to Do, Del. Law., Summer 2016.

Some jokingly refer to prostitution as the "oldest profession" but seriously view prostitution as a matter of choice. Whenever February would hear comments like this, she would say, "How many five-year-old girls do you know who say, 'When I grow up, I want to be a prostitute?'" She would more likely consider prostitution the "oldest form of oppression" rather than a profession.

When these victims are children, it is, per se, sex trafficking because minors cannot exercise choice. Once a girl — and the reality is that most victims of commercial sexual exploitation are female — turns 18, is she magically given a choice about whether to engage in "survival sex." There are not many "exit ramps" from the "life" for these girls, and the reality is that the vast majority of adult women who are prostituted do not have a real choice either. Still, prostituted women often face the same question at times asked of domestic violence victims, "Why doesn't she just leave?"— with a heavy layer of stigma added.

Suffice to say, sexism and stigma are a toxic combination and are part of the story of commercial sexual exploitation in the U.S. Thankfully, survivors of prostitution and trafficking are a great antidote to this stigma. February O'Donnell's legacy is being carried on today by other survivors. For example, my colleague, Julie Hammersley, MS, a Master's level clinician and survivor, conducts outreach to incarcerated women and residents of the Salvation Army's Restore Now program as well as to homeless women through a program Julie started called the Nightlight Project.

Survivors of prostitution and trafficking also have much better vision for spotting currently exploited victims who may otherwise be invisible in plain view. I have learned the most about commercial sexual exploitation from the women who participated in our treatment court over the five years it operated. We need to listen more to the survivors — and more people are beginning to do so. The Delaware Human Trafficking Council, for example, added its first membership position this year for a trafficking survivor to have a voice and a vote at the table.

In thinking about this topic, it is worth considering the role of gender in how we look at prostitution. Few women pay for sex. Typically, men are the customers of prostitution and sex trafficking. Females are usually the ones whose bodies are rented or sold for sex. If the gender roles were reversed, I wonder what impact it would have on public policy. It may improve our collective vision — our ability to see what is currently invisible in plain view — if we consider the role of gender and stigma in trying to help the victims of commercial sexual exploitation.

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